



# House of Representatives

General Assembly

**File No. 497**

February Session, 2018

House Bill No. 5410

*House of Representatives, April 16, 2018*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING ELECTION LITIGATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-324 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective January 1, 2019*):

3 Any elector or candidate who claims that such elector or candidate  
4 is aggrieved by any ruling of any election official in connection with  
5 any election for Governor, Lieutenant Governor, Secretary of the State,  
6 State Treasurer, Attorney General, State Comptroller or judge of  
7 probate, held in such elector's or candidate's town, or that there has  
8 been a mistake in the count of the votes cast at such election for  
9 candidates for said offices or any of them, at any voting district in such  
10 elector's or candidate's town, or any candidate for such an office who  
11 claims that such candidate is aggrieved by a violation of any provision  
12 of section 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a or 9-365 in the  
13 casting of absentee ballots at such election or any candidate for the  
14 office of Governor, Lieutenant Governor, Secretary of the State, State  
15 Treasurer, Attorney General or State Comptroller, who claims that

16 such candidate is aggrieved by a violation of any provision of sections  
17 9-700 to 9-716, inclusive, may bring such elector's or candidate's  
18 complaint to any judge of the [Superior Court] superior court for the  
19 judicial district of Hartford, in which such elector or candidate shall set  
20 out the claimed errors of such election official, the claimed errors in the  
21 count or the claimed violations of said sections. In any action brought  
22 pursuant to the provisions of this section, the complainant shall send a  
23 copy of the complaint by first-class mail, or deliver a copy of the  
24 complaint by hand, to the State Elections Enforcement Commission. If  
25 such complaint is made prior to such election, such judge shall proceed  
26 expeditiously to render judgment on the complaint and shall cause  
27 notice of the hearing to be given to the Secretary of the State and the  
28 State Elections Enforcement Commission. If such complaint is made  
29 subsequent to the election, it shall be brought not later than fourteen  
30 days after the election or, if such complaint is brought in response to  
31 the manual tabulation of paper ballots authorized pursuant to section  
32 9-320f, such complaint shall be brought not later than seven days after  
33 the close of any such manual tabulation and, in either such  
34 circumstance, such judge shall forthwith order a hearing to be had  
35 upon such complaint, upon a day not more than five nor less than  
36 three days from the making of such order, and shall cause notice of not  
37 less than three nor more than five days to be given to any candidate or  
38 candidates whose election may be affected by the decision upon such  
39 hearing, to such election official, the Secretary of the State, the State  
40 Elections Enforcement Commission and to any other party or parties  
41 whom such judge deems proper parties thereto, of the time and place  
42 for the hearing upon such complaint. Such judge shall, on the day  
43 fixed for such hearing and without unnecessary delay, proceed to hear  
44 the parties. If sufficient reason is shown, such judge may order any  
45 voting tabulators to be unlocked or any ballot boxes to be opened and  
46 a recount of the votes cast, including absentee ballots, to be made. Such  
47 judge shall thereupon, in case such judge finds any error in the rulings  
48 of the election official, any mistake in the count of the votes or any  
49 violation of said sections, certify the result of such judge's finding or  
50 decision to the Secretary of the State before the fifteenth day of the next

51 succeeding December. Such judge may order a new election or a  
52 change in the existing election schedule. Such certificate of such judge  
53 of such judge's finding or decision shall be final and conclusive upon  
54 all questions relating to errors in the rulings of such election officials,  
55 to the correctness of such count, and, for the purposes of this section  
56 only, such claimed violations, and shall operate to correct the returns  
57 of the moderators or presiding officers, so as to conform to such  
58 finding or decision, unless the same is appealed from as provided in  
59 section 9-325, as amended by this act.

60 Sec. 2. Section 9-325 of the general statutes is repealed and the  
61 following is substituted in lieu thereof (*Effective January 1, 2019*):

62 If, upon any such hearing by a judge of the [Superior Court]  
63 superior court for the judicial district of Hartford, any question of law  
64 is raised which any party to the complaint claims should be reviewed  
65 by the Supreme Court, such judge, instead of filing the certificate of his  
66 finding or decision with the Secretary of the State, shall transmit the  
67 same, including therein such questions of law, together with a proper  
68 finding of facts, to the Chief Justice of the Supreme Court, who shall  
69 thereupon call a special session of said court for the purpose of an  
70 immediate hearing upon the questions of law so certified. A copy of  
71 the finding and decision so certified by the judge of the [Superior  
72 Court] superior court for the judicial district of Hartford, together with  
73 the decision of the Supreme Court, on the questions of law therein  
74 certified, shall be attested by the clerk of the Supreme Court, and by  
75 him transmitted to the Secretary of the State forthwith. The finding  
76 and decision of the judge of the [Superior Court] superior court for the  
77 judicial district of Hartford, together with the decision of the Supreme  
78 Court on the questions of law thus certified, shall be final and  
79 conclusive upon all questions relating to errors in the rulings of the  
80 election officials and to the correctness of such count and shall operate  
81 to correct the returns of the moderators or presiding officers so as to  
82 conform to such decision of said court. Nothing in this section shall be  
83 considered as prohibiting an appeal to the Supreme Court from a final  
84 judgment of the [Superior Court] superior court for the judicial district

85 of Hartford. The judges of the Supreme Court may establish rules of  
86 procedure for the speedy and inexpensive hearing of such appeals  
87 within fifteen days of such judgment of a judge of the [Superior Court]  
88 superior court for the judicial district of Hartford.

89 Sec. 3. Section 9-328 of the general statutes is repealed and the  
90 following is substituted in lieu thereof (*Effective January 1, 2019*):

91 Any elector or candidate claiming to have been aggrieved by any  
92 ruling of any election official in connection with an election for any  
93 municipal office or a primary for justice of the peace, or any elector or  
94 candidate claiming that there has been a mistake in the count of votes  
95 cast for any such office at such election or primary, or any candidate in  
96 such an election or primary claiming that he is aggrieved by a violation  
97 of any provision of sections 9-355, 9-357 to 9-361, inclusive, 9-364, 9-  
98 364a or 9-365 in the casting of absentee ballots at such election or  
99 primary, may bring a complaint to any judge of the [Superior Court]  
100 superior court for the judicial district of Hartford for relief therefrom.  
101 In any action brought pursuant to the provisions of this section, the  
102 complainant shall send a copy of the complaint by first-class mail, or  
103 deliver a copy of the complaint by hand, to the State Elections  
104 Enforcement Commission. If such complaint is made prior to such  
105 election or primary, such judge shall proceed expeditiously to render  
106 judgment on the complaint and shall cause notice of the hearing to be  
107 given to the Secretary of the State and the State Elections Enforcement  
108 Commission. If such complaint is made subsequent to such election or  
109 primary, it shall be brought not later than fourteen days after such  
110 election or primary, except that if such complaint is brought in  
111 response to the manual tabulation of paper ballots, authorized  
112 pursuant to section 9-320f, such complaint shall be brought not later  
113 than seven days after the close of any such manual tabulation, to any  
114 judge of the [Superior Court] superior court for the judicial district of  
115 Hartford, in which he shall set out the claimed errors of the election  
116 official, the claimed errors in the count or the claimed violations of said  
117 sections. Such judge shall forthwith order a hearing to be had upon  
118 such complaint, upon a day not more than five nor less than three days

119 from the making of such order, and shall cause notice of not less than  
120 three nor more than five days to be given to any candidate or  
121 candidates whose election or nomination may be affected by the  
122 decision upon such hearing, to such election official, the Secretary of  
123 the State, the State Elections Enforcement Commission and to any  
124 other party or parties whom such judge deems proper parties thereto,  
125 of the time and place for the hearing upon such complaint. Such judge  
126 shall, on the day fixed for such hearing and without unnecessary  
127 delay, proceed to hear the parties. If sufficient reason is shown, he may  
128 order any voting tabulators to be unlocked or any ballot boxes to be  
129 opened and a recount of the votes cast, including absentee ballots, to  
130 be made. Such judge shall thereupon, if he finds any error in the  
131 rulings of the election official or any mistake in the count of the votes,  
132 certify the result of his finding or decision to the Secretary of the State  
133 before the tenth day succeeding the conclusion of the hearing. Such  
134 judge may order a new election or primary or a change in the existing  
135 election schedule. Such certificate of such judge of his finding or  
136 decision shall be final and conclusive upon all questions relating to  
137 errors in the ruling of such election officials, to the correctness of such  
138 count, and, for the purposes of this section only, such claimed  
139 violations, and shall operate to correct the returns of the moderators or  
140 presiding officers, so as to conform to such finding or decision, except  
141 that this section shall not affect the right of appeal to the Supreme  
142 Court and it shall not prevent such judge from reserving such  
143 questions of law for the advice of the Supreme Court as provided in  
144 section 9-325, as amended by this act. Such judge may, if necessary,  
145 issue his writ of mandamus, requiring the adverse party and those  
146 under him to deliver to the complainant the appurtenances of such  
147 office, and shall cause his finding and decree to be entered on the  
148 records of the Superior Court in the proper judicial district.

149 Sec. 4. Subsection (a) of section 9-329a of the general statutes is  
150 repealed and the following is substituted in lieu thereof (*Effective*  
151 *January 1, 2019*):

152 (a) Any (1) elector or candidate aggrieved by a ruling of an election

153 official in connection with any primary held pursuant to (A) section 9-  
 154 423, 9-425 or 9-464, or (B) a special act, (2) elector or candidate who  
 155 alleges that there has been a mistake in the count of the votes cast at  
 156 such primary, or (3) candidate in such a primary who alleges that he is  
 157 aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-  
 158 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots  
 159 at such primary, may bring his complaint to any judge of the [Superior  
 160 Court] superior court for the judicial district of Hartford for  
 161 appropriate action. In any action brought pursuant to the provisions of  
 162 this section, the complainant shall file a certification attached to the  
 163 complaint indicating that a copy of the complaint has been sent by  
 164 first-class mail or delivered to the State Elections Enforcement  
 165 Commission. If such complaint is made prior to such primary such  
 166 judge shall proceed expeditiously to render judgment on the complaint  
 167 and shall cause notice of the hearing to be given to the Secretary of the  
 168 State and the State Elections Enforcement Commission. If such  
 169 complaint is made subsequent to such primary it shall be brought, not  
 170 later than fourteen days after such primary, or if such complaint is  
 171 brought in response to the manual tabulation of paper ballots,  
 172 described in section 9-320f, such complaint shall be brought, not later  
 173 than seven days after the close of any such manual tabulation, to any  
 174 judge of the [Superior Court] superior court for the judicial district of  
 175 Hartford.

176 Sec. 5. Section 9-329b of the general statutes is repealed and the  
 177 following is substituted in lieu thereof (*Effective January 1, 2019*):

178 At any time prior to a primary held pursuant to sections 9-423, 9-425  
 179 and 9-464, or a special act or prior to any election, the [Superior Court]  
 180 superior court for the judicial district of Hartford may issue an order  
 181 removing a candidate from a ballot where it is shown that said  
 182 candidate is improperly on the ballot.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2019</i>	9-324

Sec. 2	<i>January 1, 2019</i>	9-325
Sec. 3	<i>January 1, 2019</i>	9-328
Sec. 4	<i>January 1, 2019</i>	9-329a(a)
Sec. 5	<i>January 1, 2019</i>	9-329b

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill specifies that all election-related litigation will be brought to the Hartford Judicial District, rather than in any judicial district in the state, and does not result in a fiscal impact, as it only reorganizes where certain cases will be heard.

***The Out Years******State Impact:*** None***Municipal Impact:*** None



**OLR Bill Analysis****HB 5410*****AN ACT CONCERNING ELECTION LITIGATION.*****SUMMARY**

This bill requires that specified types of election-related litigation be brought only in the Superior Court for the Hartford judicial district, rather than in other Superior Courts in the state. The bill applies to the following cases:

1. an elector or candidate claiming aggrievement by an election official's ruling or a mistake in the vote count in connection with (a) an election for a state constitutional office, probate judge, or municipal office or (b) a primary (see below);
2. any such candidate claiming aggrievement by a violation of laws on fraud or other prohibited acts, including those related to absentee ballots;
3. a candidate for state constitutional office claiming aggrievement by a violation of the laws on the Citizens' Election Program; and
4. before a primary or election, removing the name of a candidate who is improperly on the ballot.

The bill's provisions on primaries apply to those held for offices voted on at state elections (including presidential primaries) or municipal elections and primaries held pursuant to a Special Act.

The bill also makes conforming changes.

EFFECTIVE DATE: January 1, 2019

**COMMITTEE ACTION**

## Judiciary Committee

Joint Favorable

Yea 21 Nay 18 (03/28/2018)